



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 30, 1993

Mr. Denis Dennis
McMahon, Tidwell, Hansen,
Atkins & Peacock, P.C.
P.O. Box 1311
Odessa, Texas 79760

OR93-529

Dear Mr. Dennis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 20495.

Ector County Independent School District (the "school district") has received a request for "a copy of all students, names and addresses in attendance of Ms. Patt Washington's classroom at Sam Houston elementary for this school year."¹ You claim the requested information is excepted from required public disclosure under sections 3(a)(1), 3(a)(14) and 14(e).

Section 3(a)(1) excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You claim the requested information is made confidential under the Education of the Handicapped Act, 20 U.S.C. § 1417(c). Section 1417(c) of the Education of the Handicapped Act provides that

[t]he [Secretary of Education] shall take appropriate action, in accordance with the provisions of sections 1232g of this title, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the [Secretary of Education] and by State and local educational agencies pursuant to the provisions of this subchapter.

¹We note that the request to the school district also included a request for information concerning a specific teacher. Because the school district has already responded to the requestor by providing the requested information and informing her that some of the information does not exist, we will only consider the availability of the student information in this ruling.

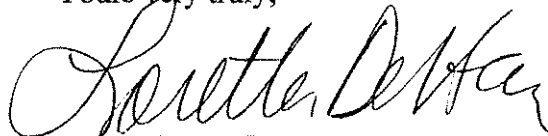
Section 1232g of title 20 of the United States Code, Family Educational Rights and Privacy Act of 1974 ("FERPA"), provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or *personally identifiable information* . . . of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1) (emphasis added). Section 300.571 of title 34 of the Code of Federal Regulations, providing regulations for the administration of the Education of the Handicapped Act, further provides that parental consent must be obtained before personally identifiable information may be disclosed. Personally identifiable information is defined *inter alia* as the name of the child, their address or social security number. 34 C.F.R. § 300.500. Accordingly, you must withhold the requested information from required public disclosure under section 3(a)(1) as "information deemed confidential by law."

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LBC/jcc

Ref.: ID# 20495

Enclosures: Submitted documents

cc: Ms. Melissa Davis
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(w/o enclosures)